

# Pre-Judgment: Basic Steps for Filing an Answer to a Small Claims Complaint

Any forms mentioned in this basic guide may be obtained from the Clerk of Court or online at <http://www.wicourts.gov/forms1/circuit.htm>.

- ☐ 1. **Decide if you need to file an answer and/or counterclaim.**
  - Does the county in which the case was filed require a written response? Follow local court rules.
  - Do you disagree with any facts of the plaintiff's complaint?
  - Do you have any other reasons for disagreeing with the plaintiff's complaint?
  - Do you have a claim of your own against the plaintiff (a counterclaim)?
- ☐ 2. **Fill out the Answer form.** Obtain the Answer and Counterclaim form (SC-5200V). The form has step-by-step instructions on the left side. Once you have filled out the form, you should make at least three copies. See Basic Guide to Wisconsin Small Claims Actions (SC-6000V) for additional information on Answers and Counterclaims.
- ☐ 3. **File the Answer.** The Answer and Counterclaim form (and copies) must be filed with the Clerk of Court in the same county where you are being sued. Depending on the county you may mail it to the Clerk before the court date or you may have to bring it with you to the court date. Follow local court rules.
- ☐ 4. **If you have a counterclaim, pay the filing fee if necessary.** If you have a counterclaim asking for a judgment for money that exceeds \$5,000, you will have to pay a filing fee to the Clerk of Court. The case may no longer be heard in small claims court and it may be transferred to civil court. You must mail the Notice of Counterclaim Over \$5,000 (SC-5250V) form that you have filed a counterclaim to the plaintiff(s) on the same day that you filed the counterclaim. The remaining steps apply to counterclaims that involve less than \$5,000.
- ☐ 5. **Serve (deliver) copies of the Answer to the plaintiff(s).** The requirements for this service (delivery) are different in each county. Follow local court rules.
- ☐ 6. **File proof of your service on the other party with the Clerk of Court.** If a sheriff or private process server has served the other party, file their proof of service with the Clerk of Court before the next court date. If you mailed the copy to the plaintiff, provide proof of mailing to the Clerk of Court. Follow local court rules.

- ☐ 7. **Prepare for the next court date.** Organize your paperwork and evidence in support of your answer and counterclaim and make enough copies for the court and all parties. If you have witnesses, arrange for them to attend. Practice what you are going to say.
- ☐ 8. **Attend the trial/hearing.** Be on time and be polite. Don't get emotional. Explain why the court should give you what you are asking for in your counterclaim. The court will review your evidence and listen to your witnesses, if any. When the court makes its decision, listen carefully. See the instructional packet, Basic Guide to Wisconsin Small Claims Actions (SC-6000V) for additional information about preparing and participating at trial.
- ☐ 9. **Complete any post decision activities.** If a court commissioner heard your case, any party may request a new trial before a judge. To request a new trial, complete and timely file a Demand for Trial and Instructions form (SC-517) with the Clerk of Court.
- ☐ 10. **If you are granted a judgment, you may have the judgment docketed so it becomes a lien on the other party's property.** Pay the docketing fee. The other party will be required to complete a Financial Disclosure of Assets form (SC-506) and send it to you within 15 days of entry of judgment unless they have already paid the judgment. If the other party does not complete the disclosure, you may file a Motion for Contempt (SC-507). The court does not collect your judgment for you, but there are actions you can take to collect your judgment. See Post-Judgment: Basic Steps for Handling a Small Claims Earnings Garnishment (SC-6070V) and Execution Against Property form (GF-115).